

MANDATE

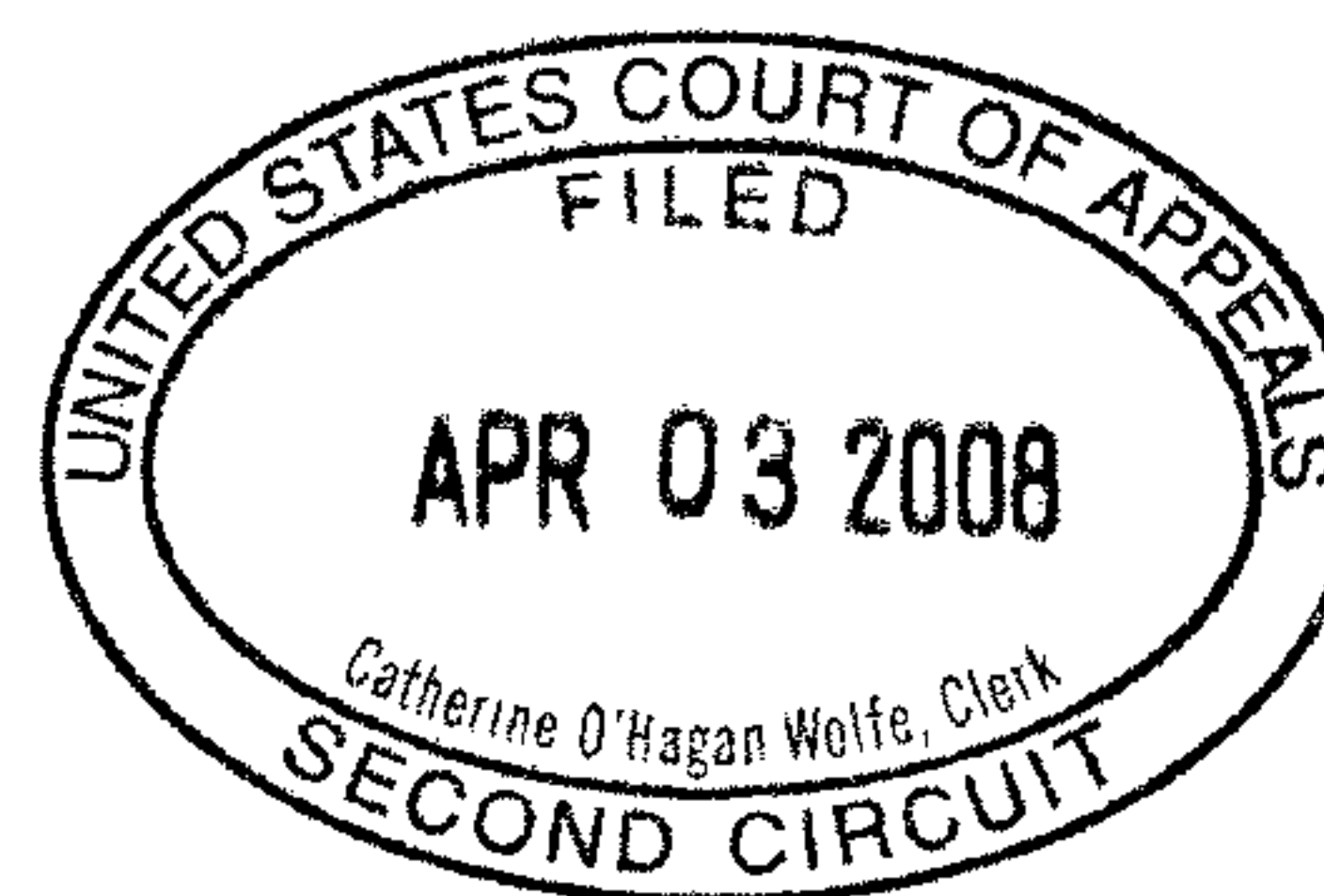
S.D.N.Y.-N.Y.C.
08-cv-1173
Wood, C.J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 3rd day of April, two thousand eight,

Present:

Hon. Dennis Jacobs,
Chief Judge,
Hon. Wilfred Feinberg,
Circuit Judge,
Hon. Leonard B. Sand,*
District Judge.



Andre Firpo,

Petitioner,

v.

08-0745-op

United States of America,

Respondent.

Petitioner, *pro se*, requests an order authorizing the United States District Court for the Southern District of New York to consider a second or successive 28 U.S.C. § 2255 motion. Upon due consideration, it is hereby ORDERED that the application is DENIED because Petitioner has not

*Honorable Leonard B. Sand, of the United States District Court for the Southern District of New York, sitting by designation.

A TRUE COPY

Catherine O'Hagan Wolfe, Clerk

by Gilaine Phillip
Deputy Clerk

ISSUED AS MANDATE:

JUN 2 - 2008

satisfied the criteria set forth in 28 U.S.C. § 2255 ¶8. Petitioner has failed to assert a claim based on either newly discovered evidence or a new rule of constitutional law. *See id.* Furthermore, the district court properly converted Petitioner's 28 U.S.C. § 2241 petition into a § 2255 motion, because Petitioner's motion consists of constitutional claims of ineffective assistance of counsel which could have been brought in a previous § 2255 motion. *See Jiminian v. Nash*, 245 F.3d 144, 147-48 (2d Cir. 2001).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By: 

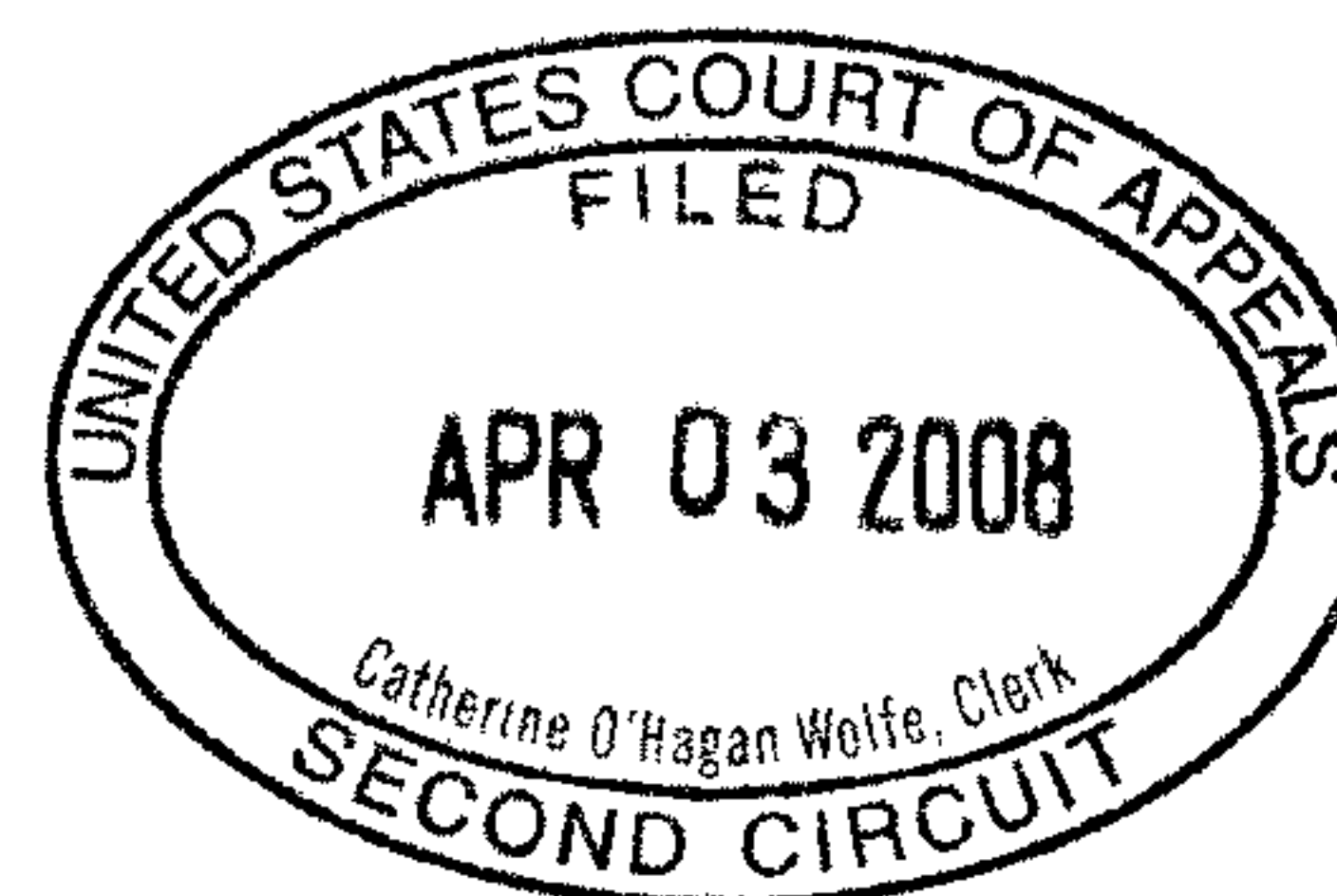
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Andre Firpo,

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08-0745-op

United States of America,

Respondent.

THE MANDATE CONSISTING OF
ITEMS BELOW, HAS BEEN RECEIVED
() OPINION () STATEMENT OF COSTS
(X) ORDER
RECEIVED BY: _____ DATE _____

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SAG-MWG

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FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By: 